

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**TAWAYNE ORAN LEWIS,**

**Petitioner,**

**v.**

**2:16-CR-00087**

**JUDGE JAMES L. GRAHAM**

**Magistrate Judge Elizabeth P. Deavers**

**UNITED STATES OF AMERICA,**

**Respondent.**

**OPINION AND ORDER**

On September 10, 2018, the Magistrate Judge issued a *Report and Recommendation* (“R&R”) recommending that Petitioner’s motion to vacate be dismissed as untimely pursuant to Rule 4(b) of the Rules Governing Section 2255 Cases in the United States District Courts. (ECF No. 110.) Although the parties were advised of the right to object to the Magistrate Judge’s R&R, and of the consequences of failing to do so. No objections have been filed. The R&R (ECF No. 110) is therefore, **ADOPTED** and **AFFIRMED**. The motion to vacate (ECF No. 104) is denied, and this action is hereby **DISMISSED**.

Pursuant to 28 U.S.C. § 2253(c)(1)(B), the Court must also assess whether to issue a certificate of appealability. Rule 11 of the Rules Governing Section 2255 Proceedings for the United States District Courts states that “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Petitioner has waived, however, the right to file an appeal by failing to file objections to the Magistrate Judge’s recommendations. *See Thomas v. Arn*, 474 U.S. 140, 147 (1985); *United States v. Walters*, 638 F. 2d 947, 950 (6th Cir. 1981). The Court therefore declines to issue a certificate of appealability.

**IT IS SO ORDERED.**

Date: October 10, 2018

/s/ James L. Graham  
JAMES L. GRAHAM  
United States District Judge